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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/804,773   | 03/18/2004  | Kevin I. Bertness    | C382.12-0190        | 7792             |
| 27367 7590 06/13/2008<br>WESTMAN CHAMPLIN & KELLY, P.A.<br>SUITE 1400<br>900 SECOND AVENUE SOUTH<br>MINNEAPOLIS, MN 55402-3244 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| PATEL, RAJNIKANT B   |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 2838   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
| 06/13/2008   |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/804,773

**Applicant(s)**

BERTNESS, KEVIN I.

**Examiner**

RAJNIKANT B. PATEL

**Art Unit**

2838

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 23-41, 46-64, 69-77 and 82-111 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 23-41, 46-64, 69-77 and 82-111 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 14 March 2008 have been fully considered but they are not persuasive. Because added limitation "without any intervening electrical measurement components between the DC-DC converter circuit and the storage battery" does not supported by specifications. Further examiner like to point out page 11 of specifications line 20-30 clearly disclose that battery testing circuitry 48 includes a voltage measurement circuit 60 and current measurement circuit 62.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted On an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the united States and was published under Article 21 (2) of such treaty in the English language.

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Dias et al. (U.S. Patent # 5,694,024).

Dias et al. disclose the claimed subject' matters an apparatus for counteracting self discharge in a storage battery (figure 2), comprising: a charge supply battery configured to provide a supply voltage (figure 2, item 25V), a DC-DC converter circuit (column 2, line 45-65) having an input configured to electrically couple coupled to the charge supply battery and an output configured to electrically couple to terminals of the storage battery (figure 2, item 250), wherein the charge supply battery is of a different type and construction than the storage battery (column 6, line 40-65).

4. Claims 2-18 and 82-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dias et al. (U.S. Patent # 6,177,737) in combination with in combination with a paper published by Electronics Express (a non patent publications, November 10, 1998)

Dias et al. disclose the claimed invention as explained in the claims 1, above except the utilization of the technique for a transformer and a bridge rectifier, a storage capacitor. A

paper published by Electronix Express teaches the utilization of similar technique for a transformer and bridge rectifier for converter (figure 1, item 24 and 28). It would have been obvious one having an ordinary skill in the art at the time the invention was made to modify Dias et al.'s apparatus by utilizing the technique taught by Barrett for the purpose improve the efficiency, size and weight of the apparatus.

In regards to claims 7-18, and 82-94 Dias et al. disclose the claimed invention except the utilization of the charge supply battery is a (single cell or plurality of cells or two cells or "D" cell, two alkaline batteries or "AA" cells or "C" cell or two "AA" or "C" "alkaline batteries or carbon batteries. It would have been obvious one having an ordinary skill in the art at the time the invention was made to utilize battery (item 14), since it has been held to be within the general skill of worker in the art to select a known batteries on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125, USPQ 416.

5. Claims 23-41 and 95-100 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tomantschger (U.S. Patent # 5,637,978) in combinations with a paper published by Electronix Express (a non patent publications, November 10, 1998) and Bertness (U.S. Patent # 6,249,124).

Tomantschger discloses the claimed invention a jump-start booster (figure 1), including a charge supply battery (figure 1, item 12), DC-DC converter (figure 1, item 10), a charge supply battery (Abstract, line 1-10). However Tomantschger does not disclose the utilization of the technique for a four point Kelvin connection, battery testing

circuitry, the DC-DC converter comprises step-up transformer, and a bridge rectifier. Bertness teaches the utilization of the similar technique for a four point Kelvin connection, battery testing circuitry (claims 1-5) and Electronix Express teaches the utilization of the similar technique for the DC-DC converter comprises step-up transformer, and a bridge rectifier (figure 1). It would have been obvious one having an ordinary skill in the art at the time the invention was made to modify Tomantschger's battery booster by utilizing the technique taught by Bertness and Electronix Express's publications for the purpose of providing an improved battery charger with battery tester.

In regards to claims 24-35 and 95-100, Tomantschger in combination with a paper published by Electronix Express (a non patent publications, November 10, 1998) and Bertness disclose the claimed invention except the utilization of the charge supply battery is a (carbon batteries or lead-acid battery or carbon coated electrode or a network of pores or 6-cell-24-cell). It would have been obvious one having an ordinary skill in the art at the time the invention was made to utilize battery (item 30), since it has been held to be within the general skill of worker in the art to select a known batteries on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125, USPQ 416.

6. For method claims 46-64,69-77 and 101-111, note that under MPEP 21 12.02, the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device

described in the specification for carrying out the claimed method, it can be assumed the device "1 inherently performs the claimed process. In re King, 801 F.2d 1324, 231 USPQ 136 (Fed Cir. 1986). Therefore the previous rejections based on the apparatus will not be repeated.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJNIKANT B. PATEL whose telephone number is (571)272-2082. The examiner can normally be reached on M-Thud 7-5.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm E. Ullah can be reached on 571-272-2082. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RAJNIKANT B. PATEL/  
Primary Examiner, Art Unit 2838

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